REMARKS

By this amendment, claim 5 is revised to place this application in condition for allowance. Currently, claims 1 and 3-6 are before the Examiner for consideration on their merits.

First and in response to the rejection under 35 U.S.C. § 112, first and second paragraph, claim 5 has been revised. Claim 5 now recites that there are a number of protrusions for engagement with the depressions. Support for this amendment can be found on page 14, lines 11-14, wherein the second spring component 23b is described as having a plurality of protrusions. This is also consistent with the original language of claim 5 that recited the first and second engagement members in terms of a plurality of members. When one of the engagement members of claim 1 was revised to define a plurality of depressions, specifying a plurality of engagement members in claim 5 became redundant. To correct this redundancy, claim 5 is revised to cover the embodiment specifying a plurality of protrusions.

In light of the change to claim 5, the rejections based on 35 U.S.C. § 112, first and second paragraphs should be withdrawn. It is also requested that the revision to claim 1 does not require a further search of the invention or raise a new issue that would prevent entry of this amendment for purposes of appeal. The change to claim 5 does not change the overall issue of patentability for this application, and it should not be used as grounds to extend the prosecution of this application by requiring the Applicant to file an RCE just to resolve the issues raised in the final rejection regarding 35 U.S.C. § 112, first and second paragraphs.

Turning now to the prior art, it is respectfully contended that the rejection based on Fujima is not proper and should be withdrawn as failing to establish a *prima facie* case of anticipation against claim 1.

In review, the Examiner has taken the following position to support the rejection that Fujima teaches the claimed invention:

1) the grooves 46 are the claimed recesses;

2) the stoppers 27 are the claimed protrusion;

3) first support member 21 is the angle control means;

4) the presence of the overhang 51 will limit the rotation of the first support member 21; and

5) there is a rotational relationship between the first support member 21 and side wall 4A.

It is again contended that Fujima does not teach the claimed angle control means.

First, the fact that the shaft 24 can be inserted into opening 26 and held in place by the stoppers 27 does not mean that Fujima teaches the claimed angle control means. The grooves 46 allow the shaft and its stoppers 27 to pass through the opening 26 and merely hold the shaft in place so that the buckle 7 and strap 6 can freely rotate. There is no intent or written disclosure in Fujima to retain the position of the buckle in a predetermined position, the buckle is free to rotate once it is attached to the side wall of the mask.

Even if one were to position the buckle and strap in a particular location when using the mask of Fujima, there is nothing, i.e., angle control means, to keep the buckle in a predetermined location. The strap may shift due to movement of the head, or via contact between hands and the mask or the like, and such movement or contact can then rotate the buckle and move the strap, thereby changing the initial mask orientation and causing problems for the user. The grooves 46 and stoppers 27 have nothing to do with control of the rotation of the buckle, they merely facilitate attachment of the buckle by securing the shaft 24 in place in the side wall 4.

The fact that the buckle 7 contacts the overhang 51 during rotation does not mean that there is an angle control means as defined by the claims in Fujima. Claim 1 defines the angle control means as:

> being formed on each of said side walls of said lens frame and each of said buckles associated with said side wall and adapted to be releasably brought into mutual engagement so as to retain said buckle at a predetermined rotation angle with respect to said side wall;

This language says that the buckle is retained at a predetermined rotation angle with respect to the side wall. The mere fact that the rotation of the buckle 7 of Fujima is limited by the overhangs 51 and 52 does not mean that the claimed angle control means is found in Fujima. Even if the buckle 7 of Fujima were to rotate so that it would contact the overhang 51, there is nothing to prevent the buckle from being retained at that angle. The buckle could freely rotate away from the overhang 51 since there are no means present whereby a protrusion and a recess would engage to maintain the buckle at the predetermined rotational angle as required by claim 1.

It is also asserted that Fujima does not meet the limitations regarding the protrusion and depressions. In the rejection, the Examiner relies on col. 4, lines 42-51 to state "Fujima teaches the cylindrical portion 24 of buckle 7 is inserted into through-hole 26 of lens frame 4 as stoppers (protrusions) 27 are aligned with grooves 46 formed along the edge of the hole 26, with the portion 24 rotated in a direction (indicated by arrows S) until the protrusions reach respective positions." It is not understood how this statement supports the rejection. First of all, the protrusions 27 are free from the grooves 46 when the buckle is attached to the side wall. In claim 1, the angle control means which retains the buckle at a predetermined rotational angle is further defined by recesses and a protrusion, with the protrusion releasably engaging one of the recesses as part of angle control

While it can be said that the protrusion 27 releasably engages the groove 46 of Fujima, this releasably engagement has nothing to do with retaining the buckle in a predetermined rotational angle. To the contrary, the grooves 46 are present to allow the shaft and its protrusions 27 to pass through the hole 26, with the protrusions 27 engaging the rear face of the side wall 4 to keep the shaft 24 and buckle in place. Such an arrangement allows for free rotation of the buckle.

The Examiner cannot merely allege that the claimed recesses and protrusion correspond to the grooves 46 and stoppers 27 of Fujima and at the same time ignore the fact that the claimed recesses and protrusion are part of the angle control means; the components of Fujima identified to correspond to the claimed recesses and protrusion have nothing to do with angle control of the buckle. To reiterate, while Fujima may be said to have a plurality of recesses and a protrusion, these components, even if defining a rotational relationship, do not engage each other to achieve the claimed angle control of claim 1.

The Examiner's comments on the last two sentences of paragraph 7 in the Office Action are noted. However, Applicant is not sure as to the intent of these remarks or how they support the rejection. In the first sentence, the Examiner defines a rotational relationship between the buckle and side wall, and Applicant does not dispute that such a relationship exists. However, this observation does not by itself establish a basis to allege that Fujima discloses the claimed invention.

The Examiner then alleges that the rotational relationship is determined by which protrusion is inserted into which groove. This statement is not understood since the extent of buckle rotation will be the same regardless of whether the shaft of the buckle is inserted in the manner shown in Figure 3 or whether the buckle is rotated 180 degrees from the orientation of Figure 3 so that the strap is angled downwardly when attaching the shaft to the side wall. What may be different is the direction that the buckle rotates once the protrusions pass past the grooves. As with the previous paragraph, the manner in which the shaft is secured to the side wall is irrelevant to the issue of whether Fujima teaches the claimed angle control means.

The last sentence in paragraph 7 is also not understood. The fact that the shaft 24 is integral with the plate 47 does not bear on the issue at hand, which is whether Fujima teaches the claimed angle control means. While the buckle 7 and protrusions 27 will rotate together, this fact does not teach the invention; it merely means that the buckle will stay affixed to the side wall until the rotation is such that the protrusions 27 align with the grooves 46 so that the shaft can be removed from the through-hole 26 if so desired.

The present invention is an improvement over the mask of Fujima, and provides significant advantages in that the strap can be retained at the adjusted position. There is absolutely no means in Fujima to achieve this aim, and the invention is deserving of patent protection for the reasons set out above.

In light of the arguments set forth above, it is contended that Fujima fails to establish a *prima facie* case of anticipation against claim 1, and the rejection must be withdrawn for this reason.

It is further contended that there is no basis to reject claim 1 under 35 U.S.C. § 103(a). As demonstrated above, Fujima lacks any sort of angle control means whereby a protrusion would engage a recess so that the buckle would be at predetermined rotation angle. Lacking any motivation to modify Fujima, the Examiner has no legitimate basis to reject claim 1 from an obviousness standpoint. Any such allegation could only be the hindsight reconstruction of the prior art in light of Applicant's disclosure, and a rejection of this nature could not be sustained on appeal.

Since claim 1 has been demonstrated to be patentable over the cited prior art, claims 5 and 6 are also in condition for allowance with allowed claims 3 and 4.

Accordingly, the Examiner is respectfully requested to examine this application in light of this amendment and pass claims 1 and 3-6 onto issuance.

If the Examiner believes that an interview with Applicant's attorney would be helpful in expediting prosecution of this application, the Examiner is requested to telephone the undersigned.

The above constitutes a complete response to all issues raised in the Office Action dated January 4, 2006.

Again, reconsideration and allowance of this application is respectfully requested.

Please charge any deficiencies to Deposit Account No. 50-1088.

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